

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NEWPORT NEWS DIVISION**

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UNITED STATES OF AMERICA,	)	
	)	
v.	)	CRIMINAL ACTION NO.
	)	4:08cr16
DAVID ANTHONY RUNYON,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
DAVID ANTHONY RUNYON,	)	
	)	
Petitioner,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	4:15cv108
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

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**DECLARATION REGARDING FILE TRANSFER**

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I am the community defender for Federal Defender Services of Eastern Tennessee, Inc. (“FDSET”). On February 22, 2023, this Court held a hearing on FDSET’s motion to withdraw in this matter. The Court granted the motion, continued Mr. Runyon’s evidentiary hearing, and required the parties to file affidavits regarding a proposed file transfer process on February 24 and February 27. Court Minutes, ECF No. 794. I submit the following declaration regarding a proposed file transfer process:

1. FDSET staff communicated with Ms. Elizabeth Peiffer and Mr. Rob Lee of the Virginia Capital Representation Resource Center (“VCRRC”) regarding the timely transfer of Mr. Runyon’s complete file, balancing the interests of judicial economy as well as taking all necessary steps to ensure that Ms. Peiffer and the VCRRC receive the complete file. We propose a targeted approach that is focused on the portions of the file that are relevant to Mr. Runyon’s claim that is currently before this Court. We propose this targeted approach in an effort to balance the interests of judicial economy as well as our interest to provide assurances to VCRRC that we are providing them a complete file that is organized in such a manner as to allow them to proceed efficiently.

2. A small number of FDSET employees will be responsible for the file transfer to VCRRC. No one on the file transfer team was assigned to Mr. Runyon’s case originally. All employees assigned to Mr. Runyon’s case originally were instructed not to access or modify anything in Mr. Runyon’s file.

3. Mr. Runyon’s paper file is stored in a locked room at FDSET. FDSET staff were informed that access to the room is restricted to only those responsible for the file transfer process or those given permission by Mr. Stephen Ferrell, the Capital Habeas Unit supervisor, or me.

4. FDSET will provide documentation to VCRRC regarding the scan of the original file. Specifically, FDSET will provide a receipt for the scanning of the original file, as well as our internal records regarding which files were scanned when we were initially appointed on Mr. Runyon’s case.

5. The VCRRC will provide instructions on where to FedEx Mr. Runyon’s

file. Once FDSET receives those instructions, Mr. Runyon's entire paper file will be sent via FedEx to a location designated by VCRRC. Each banker's box will include an index of its contents.

6. One digital copy of Mr. Runyon's file will be saved onto an external hard drive, which will be sent via FedEx to the VCRRC team. Each component of the digital file will be handled as follows:

7. By March 17, 2023, the FDSET team will re-scan all files related to the penalty phase. The scanned copy of the penalty phase files, along with an index of the contents of said files, will be saved on the external hard drive.

8. By March 17, 2023, FDSET will organize the contents of Mr. Runyon's internal file, or H drive file, to ensure that documents are stored in the proper sub-folder and accurately labeled. The organized contents of the H drive file will be saved to the external hard drive.

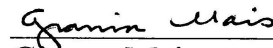
9. Digital copies of Mr. Runyon's file are also contained in two software platforms: Summation and Eclipse. The FDSET file transfer team is working with the National Litigation Support Team (NLST) to develop a plan that exports the contents of the Summation and Eclipse files into a digital form that is accessible to the VCRRC. The Summation and Eclipse file export will be accomplished by March 31, 2023. The primary goals of the export process include: ensuring that optical character recognition ("OCR") has been performed on all files; that, to the extent possible, all document source information is preserved and captured; and that the exported files include an index. The files exported from Summation and Eclipse will be saved onto the external hard drive by

March 31, 2023.

10. During the week of April 3, 2023, FDSET will send via FedEx to VCRRC the external hard drive containing the H drive file and exported files from Summation and Eclipse.

11. FDSET recognizes its ongoing duty to communicate with the VCRRC regarding the file transfer process and our obligation to respond to their questions and requests in order to effectuate a complete and timely file transfer. We are especially cognizant of our obligations to respond to any questions regarding source information contained in exported Summation and Eclipse files, which may not be visible in the exported file format provided to VCRRC. FDSET will continue to remain available to VCRRC after the file transfer is complete in order to address any concerns or questions.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

  
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Gianna Maio  
Community Defender, FDSET  
February 24, 2023